

REPUBLIC OF  SOMALILAND
ATTORNEY GENERAL OFFICE

**Training Report for Specialized Prosecutors
On SGBV in Burao
13th– 14th Oct 2021
Burao, Somaliland**



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i. **ACKNOWLEDGEMENTS**

This report is a result of a training that was held in Mansoor Hotel Buroa Somaliland from 13th -14th October 2021. It was made possible due to the support of United Nations Development Program, European Union and Somaliland Attorney General Office. As a participant of this training that took place in Buroa 2021, I would wish to thank each and every organization for their enormous support that enabled us to implement this initiative. Special thanks should also go to all prosecutors who came to Buroa from other regions of Somaliland to participate this training.

Mr. Ali Mohamed Ali

Local Technical Advisor

Hargeisa, Somaliland

13th October2021

1.0 EXECUTIVE SUMMARY

1.1 Objectives of Training

The training was part of project of Somaliland Joint Rule of Law Programme were by United Nations Development Program and European Union were funding and putting a lot of effort on making it happen. In the opening of the training Head of Togdheer Regional Office of Attorney General Mr. Jama Dualeh Saeed elaborated very well the role of his office in empowering women in various aspects. The previous Training that Mr. Jama had participated in was one of such measures that are being implemented to avoid sexual gender-based violence by any means across the region. In his opening statement Mr. Jama Dualeh Saeed gave a background about Togdheer regional Office and its effort to fight social injustices so as to achieve gender equity and equality.

1.2 Training Overview

Effective prevention and response to sexual gender-based violence (SGBV) requires a well-planned and coordinated effort among an array of organizations, disciplines, and sectors.

This training enhanced the capacity of Specialized Prosecutors for regional offices. The main themes of the training related the international instruments protection SGBV from women, children who are main victims of such types of crimes. The other topics are Somaliland laws related the SGBV crimes, including Constitutional provisions, penal Code Articles, and juvenile Justice Law.

This training was intended to provide experience sharing between the head of regional office of eastern regional of Somaliland (Sanaag, Sool, Saraar, Oodweyne, Togdheer and Saxil). Additionally the training focused the case management and reporting system of SGBV cases.

Overall the two day training the outcome was to train 15 specialized prosecutors to build the capacity, increase knowledge, skills, and abilities to address Sexual gender-based violence SGBV.

1.3 Participants Characteristics

Participants were from office of Attorney General at the eastern regions of Somaliland ; the head of regional offices and specialized prosecutors for SGBV cases are invited. also others were clerks or prosecutor's regional office staffs. The total number of participants were 15 members.

Acronyms:

AGO Attorney General Office

UNDP United Nations Development Program

SPU Somaliland Police Unit

T/DHEER Togdheer Region of Somaliland

M/JEEX Marodi Jeeh region of Somaliland

SGBV Sexual Gender-based Violence

GBV Gender-based Violence

HIV Human Immunodeficiency Virus

AIDS Acquired Immune Deficiency Syndrome

VAW Violence Against Women

SL The Republic of Somaliland

MOJ Ministry of Justice

EU European Union

2.0 INTRODUCTION

2.1 Background

From 13th-14th October 2021, Somaliland Attorney General Office together with United Nations Development Program organized a Training for Specialized Prosecutors on Sexual Gender Based Violence SGBV. This is part of United Nations Joint Rule of Law program. The theme of this training however is part of a bigger initiative on Communication for Advocacy Strategies to eradicate sexual gender-based violence/violence against women that Somaliland Attorney General Office is implementing as part of its yearly program on eradication of sexual gender-based violence.

Gender-based violence is an umbrella term for any harmful act that is perpetrated against a person's will, and that is based on socially ascribed (gender) differences between males and females. It includes acts that inflict physical, sexual or mental harm or suffering, threats of such acts, coercion, and other deprivations of liberty. These acts can occur in public or in private.

Somaliland most common SGBV crimes occurred are rape, attempt rape, and unnatural rape. 125 cases prosecuted in 2020. There were three cases rape with murder, the situation become worsened.

There are a number of efforts made by SGBV relevant institution, supported by the UNDP, particularly Office of Attorney General established specialized prosecutors for SGBV crimes across the six regions. Health centers are formed in three regions combined with medical provisions, a psychologist and a social worker and police detectives which provides immediate medical attention for survivors, and to report their cases. Additionally, police Criminal Investigation Department are mainly responsible for the investigation of rape cases and provided regular SGBV trainings for the concerned detectives for SGBV matters.

All those achievements need continuation, and regular development.

2.2 Participant Introduction

This was a kind of an ice breaker meant to enable participants know each other better. Mr. Ali Mohamed began the session with appreciative inquiry method. This method which is another way of looking at things and people differently in a positive way, enabled the participants know each other by name, region, different strengths and achievements accomplished by participants which were taken up as resources brought into the training. Each participants put personal information in brief on a paper which were then taken by the report writer of the Somaliland attorney general office.

2.3 Methodology

The training was used a number of participatory adult learning methods such as brain storming, discussions, questions and answers, group work, role plays, case studies and brief presentations.

This problem is a worldwide phenomenon that causes enormous pain; it involves heavy emotional and economic costs and even loss of human lives. For professionals in a forensic field, it is important to have a good knowledge of the characteristics of SGBV to be able to understand the dynamics of the repeating violence, the risk assessment, and the importance of an optimal forensic investigation. Like any other country in Africa or in the world at large, Republic of Somaliland is dealing with such violence with the lead of the country's Attorney General Office.

Here below are some topics and discussion of the training:

3.0 LAWS ON SGBV CASES IN SOMALILAND

Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of violence, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.

3.1. Types of Violence

Violence against women includes but is not limited to the following:

3.1.1 Physical violence

Hitting, slapping, punching, kicking, burning, cutting, or otherwise harming the body

3.1.2 Sexual violence

Rape (in or out of marriage), assault, attempted rape, forced prostitution, incest, coercion, female genital mutilation, sexual harassment, inappropriate/unwanted touching

3.1.3 Economic violence

Overwork, denial of ownership of property, withholding or taking earnings, denial of inheritance, withholding education, unequal pay, not being allowed to work, deprivation of access to basic needs such as food and shelter.

3.1.4 Emotional violence

Verbal abuse, threats, insults, control, constant criticism, intimidation, humiliation.

3.2 International Legal & Policy Context

The prohibitions on sex discrimination in the UN Convention on the Elimination of All Forms of Discrimination against Women encompass GBV. GBV has been identified by the UN CEDAW Review Committee as “a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men”.

Adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.

The Convention provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life -- including the right to vote and to stand for election -- as well as education, health and employment.

The UN Declaration on the Elimination of Violence against Women 20 December 1993 affirms that violence against women constitutes a violation of the rights and fundamental freedoms of women.

The Beijing Declaration and Platform for Action calls on governments to enact or reinforce legislation to punish and redress violence against women and girls in homes, the workplace, the community and society.

The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa devotes Article 4 entirely to the topic of violence against women, calling for a range of state measures to address violence which takes place “in private or public”, including the punishment of perpetrators, the identification of causes of violence against women and the provision of services for survivors.

3.3 Forms of Violence Against Women

Physical violence: including physical assault, murder, physical harassment in public, attempted murder, denied access to medical treatment, harmful traditional.

Sexual violence: Forced marriage, child marriage, forced engagement, forced prostitution, rape, and forced sexual intercourse with husband, incest, sexual assault and Female Genital Mutilation (FGM).

Psychological/emotional violence: denial of food or basic needs, prevention of education, refusal to communicate; preventing maternal contact with children, using children as threats, physical threats to other family members, verbal insulting, threats to kill, intimidation, restrictions on movement outside the home i.e., to visit own family, talk to neighbors, etc., forced to divorce/ separate, abandoned to own parents.

Other types of violence: Other traditional and cultural practices i.e., kidnapping, attempted kidnapping, trafficking.

4.0 NATIONAL LEGAL AND POLICY CONTEXT

4.1 Somaliland Constitution (2001)

Article 130(5) of the Constitution provides that ‘all the laws which were current and which did not conflict with the Islamic Sharia, individual rights and fundamental freedoms shall remain in force in the country of the Republic of Somaliland until the promulgation of laws which are in accord with the Constitution of the Republic of Somaliland.’

4.2 Women's Rights and the Constitution of Somaliland

The Somaliland Constitution confers certain rights on all citizens, including:

Article 8: Equality of Citizens

All citizens of Somaliland shall enjoy equal rights and obligations before the law, and shall not be accorded precedence on grounds of colour, clan, birth, language, gender, property, status, opinion etc.

Article 20: Equality in work and social security

All able citizens have a right and a duty to work. The state shall, therefore, be responsible for the creation of work and the facilitating of the skills training of employees. (Somaliland Labour Code/ the Law of Civil Service (Law No. 7/1962) and Sharia law)

The conditions of work of the young and women, night working and working establishments shall be regulated by the Labor Law.

Article 22: Equality in political, social and electoral rights

Every citizen shall have the right to participate in the political, economic, social and cultural affairs in accordance with the laws and the Constitution.

Every citizen who fulfils the requirements of the law shall have the right to be elected (to public office) and to vote.

Article 23: Equality to form and join social organizations

All citizens shall have the right to form, in accordance with the law, political, educational, cultural, social, and occupational or employees’ associations.

Article 31: Equality in property rights

Every person shall have the right to own private property, provided that it is acquired lawfully.

Article 15: Equality in access to education

The state shall pay particular attention to the advancement, extension and dissemination of knowledge and education as it recognizes that education is the most appropriate investment that can play a major role in political, economic and social development.

Article 17: Equality in access to health services

In order to fulfill a policy of promoting public health, the state shall have the duty to meet the country's needs for equipment to combat communicable diseases, the provision of free medicine, and the care of the public welfare.

The state shall be responsible for the promotion and the extension of healthcare and private health centers.

Article 28: Equality to judicial recourse

Every person shall have the right to institute proceedings in a competent court in accordance with the law.

Every person shall have the right to defend himself in a court.

The state shall provide free legal defense in matters which are determined by the law, and court fees may be waived for the indigent.

Article 36: Women's rights

The rights, freedoms and duties laid down in the Constitution are to be enjoyed equally by men and women save for matters which are specifically ordained in Islamic Sharia.

The Government shall encourage, and shall legislate for the right of women to be free of practices which are contrary to Sharia and which are injurious to their person and dignity.

Women have the right to own, manage, oversee, trade in, or pass on property in accordance with the law.

In order to raise the level of education and income of women, and also the welfare of the family, women shall have the right to have extended to them education in home economics and to have opened for them vocational, special skills and adult education schools.

Women's rights are also protected under a number of other articles: 54, 55

The Somaliland Constitution also enshrines rights for women in Article 36. These rights concentrate predominantly on economic, social and cultural rights but the Article also specifies that 'the Government shall encourage, and shall legislate for, the right of women to be free of

practices which are contrary to Sharia and which are injurious to their person and dignity.’ To date, there is no such law outside of the provisions already existing within the criminal legislation which has been passed.

4.3 Applicable SGBV legislation in Somaliland

The legislation in place to address SGBV consists primarily of the Italian Penal Code and the Criminal Procedure Code.

The Penal Code (1962)

Under the Penal Code some forms of SGBV are criminalized.

4.4 GROUP DISCUSSION

Under the Penal Code some forms of GBV are criminalized, analyze the provisions of penal code and state if there is uncovered areas of GBV cases.

Article 398, which criminalizes sexual intercourse committed through the use of threats or violence or where the second person is ‘incapable of giving consent’;

Article 399: which further criminalizes ‘acts of lust other than carnal intercourse’ committed through the use of threats or against a person who is incapable of giving consent;

Article 400: unnatural offence committed with violence.

Article 401: Abduction for purpose of lust or marriage

Article 407: which prohibits the instigation, facilitation or aiding of prostitution, as well as the ‘exploitation’ of its proceeds;

Article 408 & 464: which prohibits compelling prostitution through violence or threats. And Forced Labor.

Article 427 incest: prohibits carnal intercourse whom forbidden to marry.

Article 430 & 432: violation of duty towards Family. & Ill treatment of child and members of family.

Article 418: Abortion without Consent.

These provisions stipulate that punishment for these crimes should be 5- 15 years for rape, 1- 5 years for other forms of sexual abuse, 2 months- 2 years for facilitating prostitution and 2-6 years for doing so using threats or violence.

These provisions are based on the Italian Penal Code of 1930. All sexual crimes are criminalized under the section on ‘Crimes against Morals and Decency.’ This is separate to the section on ‘Crimes against the Person.’ Distinguishing crimes committed against persons from crimes against morality is contrary to international best practice guidelines.

4.5. LIMITATION AND GAPS

The Penal Code does not address the following, among others, sexual and gender-based violence:

- Sexual exploitation;
- Sexual harassment;
- Physical assault (e.g., domestic violence);
- Trafficking for sexual exploitation;
- Offences against persons with a mental disorder;
- Emotional and psychological violence (e.g., abuse/humiliation, confinement);
- Female genital mutilation;
- Early/forced marriage;
- Neglect:
- Denial of education for girls or women;
- Denial of inheritance;
- Causing a person to engage in sexual activity without consent.

4.6. Gab

Laws dealing with the prosecution of GBV are distributed between the Penal Code and the Criminal Procedure Code. There is no single piece of legislation comprehensively criminalizing GBV, and no laws aiming to protect the rights of the survivor or to ensure that such cases are resolved in accordance with law.

4.7. Draft Rape & Sexual Violence Bill

Draft Rape and Sexual Violence Act is presented to the Lower House of the Parliament by nongovernmental organizations which collaboratively drafted Act. The provisions of the draft cover wider range of sexual acts beyond the limited prohibitions in the Penal Code. But the draft does not address gender-based violence.

4.7.1. Gaps of The Draft

The Attorney General Office made comments on the weaknesses of the draft sexual bill. Which are following;

It is not mentioned the unnatural sex indicated in Article 400 Penal Code. Which has more serious sentence than carnal intercourse 398 Pinal Code?

Also, the Bill neglected and removed some essential Articles in the penal code concerned sexual offence including 402, 403, 404, 405, 406, 407 408, & 410pc. While some other Articles are mentioned but increased their sentences.

This new bill is not covered the crimes of Homosexuality which is mentioned in Article 409PC.

While the bill is not covered prostitution and adultery, which is provided in Articles of 405 and 426pc.

The bill reduced the sentence of 402 3-month up to 6months while in the penal code the punishment is 3 months upto 3 years. Which out good reason for that. The bill established more sentence limit then it's mentioned in Article 96 of PC, which is indicated the maximum punishment for imprisonment should be 24 years. But this bill stated the rape should be punished 20 to 25 years imprisonment.

5.0 DEALING WITH THE VICTIM

5.1 Interviewing the Victim:

- Interviewing Techniques:
- Interview the victim separately from the batterer.
- Ask only one question at a time, and wait for the answer. Listen carefully to the victim's answers, and do not interrupt.
- Allow the victim to describe the incident in their own terms, and then ask clarifying questions
- If s/he is shaking or crying, acknowledge this. Be prepared for the victim to be angry, as well.
- Remember that victims may often use minimizing language to describe extreme acts of violence. Follow up by asking them to expand on what they just said.
- Ask the victim about any history of abuse, whether it was reported or not. Remember that victims may not remember all instances of abuse; they are more likely to remember the first, the last, and the worst incidents.
- Be patient and reassuring, and try to avoid unnecessary pressure. The victim may feel a combination of both fear of and loyalty to the suspect.
- Do not judge victims but listen with non-blaming feedback. Try to avoid making assumptions about the situation or the experience.
- Resist giving your personal opinion about what the victim should do.
- Reassure the victim that s/he is not to blame and that help is available.
- Ask the victim whether s/he has injuries that are not apparent. Sometimes, it may be necessary to ask an open-ended question, such as: "Where did he put his hands?"
- Conclude the interview in such a manner that the victim feels comfortable contacting the prosecutor again.

5.2. Interviewing Children:

- Interview children outside the presence of their parents.
- Conduct the interview in a place that is comfortable for the child.

- Attempt to place yourself on the child's level by sitting or kneeling.
- Begin the interview with non-threatening questions.
- Avoid suggesting responses to questions.
- Interview children outside the presence of their parents.
- Conduct the interview in a place that is comfortable for the child.
- Attempt to place yourself on the child's level by sitting or kneeling.
- Begin the interview with non-threatening questions.
- Avoid suggesting responses to questions.

5.3. Interviewing a Child: Special Factors to consider

- The interview should be private.
- The interview should be safe. No one who is frightening to the child should be in the room.
- The interview should be confidential. Explain to the child what can or cannot be used in court.
- The interviewer must create a friendly, gentle relationship with the child before asking about the specific crime or acts.
- Do not have any furniture between you and the child. Get down on their level. Sit on the floor.
- Be polite and kind. Speak in slow, simple words. Use their words for events and body parts and people. Ask them to illustrate by pointing or drawing what they mean by a word that is not understandable e.g., "do". Document this in the record.
- Be patient. Do not be in a hurry.
- Use methods other than talking. Let them draw, play, act, use toys etc.
- Explain what is happening and what is going to happen. Ask them to repeat back to you not just say yes, they understand.
- 10. If the child cries or gets angry, do not tell them to stop and do not become upset yourself. Let them cry. Give them a tissue. Let them express their anger. They have every reason to be angry.
- Do not tell the child everything will be all right. They know the reality and that you cannot protect them from further harm. Information and kindness will do more to help them than false promises.
- Be sure the child is finished talking before ending the interview. Ask them if there is anything else they want to tell you
- Do not joke or be cheerful. It just looks like you are not taking them seriously. This is serious business. Have your mood reflect the child's.
- Be careful about gender. If the victim is a girl, the interviewer may need to be a woman or at least a woman should be in the room. If the girl was abused by a man, she should not be left alone in a room with a man.

6.0. CHALLENGES PROSECUTORS FACE WHEN DEALING WITH SGBV CASES AND RECOMMENDATIONS:

Somaliland prosecutors face different challenges when dealing with sexual gender-based violence, every region of the country has their different or unique problem to deal with when it comes with solving an SGBV case.

During the training that was held in Mansoor hotel Buroa, prosecutors unveiled the main challenges they face during the time of dealing with an SGBV case. The main points they highlighted include:

1. The most difficult one for us is the practise of Somaliland Juvenile Law, there are No judges who are trained for dealing with the SGBV cases in Togdheer region, the judge's knowledge about this case is usually limited because they are not trained for such cases. Judges ask the child victim irrelevant question which is bigger than the child's thinking capacity.
2. There is no specialized Judges for Juvenile Cases, also there is no police or rehabilitation centers for Juveniles.
3. Prosecutors mentioned that they also face problems from the victim's family, a raped girl may report her case to the regional prosecution office then after the relatives hear about the reported case the two families of the victim and the perpetrator begins to solve the case out of the judiciary in a traditional way which is not totally a favour for the victim.
4. Additionally Prosecutors pointed that after a case is reported and we bring the case with the evidences to the court, we face a big obstacle bringing the witness in front of the court because sometimes witnesses live a remote area and they don't have transportation so it us to get them vehicles so that they can be brought to the court
5. The prosecutors from Sool regional stated that; as a Sool region I believe we face the biggest challenges since our region locates at the border of Somalia and Ethiopia. Sometimes a perpetrator commits rape in the region then he immediately crosses the border to Somalia so there is no way that we can get him caught from another country so this is another challenge too.

6.1 LESSONS FROM THE TRAINING:

Participant feedback was extremely positive in terms of outcomes of the training. The great

majority (over 80%) indicated they will definitely apply the knowledge and Experience they get from the Training.

7.0. CONCLUSION:

Every minute of every day, women and girls across the country are suffering from some form of sexual gender-based violence, and many are dying. Everyone - individually prosecutors and collectively - is responsible for taking action to eliminate sexual gender-based violence and to ensure that survivors receive the help they need from the regional prosecution offices. SGBV is a complex and cross-cutting issue that requires attention and action

This was an action-oriented training. The entire two days were spent learning about, thinking about, and planning for concrete action to make real changes in the lives of women and girls in Somaliland regions. Participants shared experience and skills for proper prosecution of SGBV cases. Participants made a public commitment to apply the lessons learned during the training in the future, working together to strengthen protection from sexual gender-based violence and, ultimately, to end violence against women in their Somaliland specially their regions.

8.0 Resource Material

- 1 The documents available in electronic form can be downloaded from the Internet through SOMALILAND ATTORNEY GENERAL WEBSITE www.slattorneygeneral.org

9.0 ANNEXES: Participant name

NO	NAME	REGION	TIME IN	TIME OUT
1	Jama Farah Abdilahi	Sool	8:00	2:00
2	Jama Dualeh Saeed	T/dheer	8:00	2:00
3	Faarah Mohamed Abdi	T/dheer	8:00	2:00
4	Ali Abdilahi Hufane	T/dheer	8:00	2:00
5	Yusuf Abdilahi Ali	Saraar	8:00	2:00
6	Abdikariin Hussein Ahmed	Sahil	8:00	2:00
7	Yasin Mohamed Jama	Sanaag	8:00	2:00
8	Saleban Omar Nuuh	Sahil	8:00	2:00
9	Mohamed Ali Yusuf	T/dheer	8:00	2:00
10	Omar Abdilahi Ibrahim	Sanaag	8:00	2:00
11	Fahima Mohamed Adan	T/dheer	8:00	2:00
12	Ahmed Isse Dirir	T/dheer	8:00	2:00
13	Nour Ahmed Abdilahi	T/dheer	8:00	2:00
14	Abdillaahi Ali Yusuf	Sahil	8:00	2:00
15	Fatxiya Cabdikarim Sh Hassan	Sahil	8:00	2:00

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